

### REMARKS

The applicant has carefully reviewed the application in light of the Office Action dated June 11, 2007. Applicant amend claims 68 and 70-74 and cancels claim 69. The amendments to the claims have only been done to expedite the prosecution.

### Claim Rejections – 35 U.S.C. §103

The Examiner rejects Claims 68-74, 76 and 77 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,072,380 issued to Randelman et al. (hereinafter "*Randelman*"). The Examiner also rejects Claim 75 under 35 U.S.C. §103(a) as being unpatentable over *Randelman*, and further in view of U.S. Patent No. 4,263,945 issued to Van Ness (hereinafter "*Van Ness*"). Applicant respectfully traverses these rejections.

The amended independent claim 68 recites, "emitting radio frequency signals from a short-range antenna of a first dispenser such that an electromagnetic field of a predetermined operable range is created only proximate a surface of the first dispenser, and the dispenser can wirelessly communicate with hand-held transponders within the operable range independent of other dispensers configured to wirelessly communicate with transponders." In particular, the operable range is only proximate a surface of the dispenser. In contrast, *Randelman* merely teaches that the antenna 2 is embedded in the service station 3 such as in the roadway or overhead of the service station 3. Col. 2, lines 30-34; Claims 5-6. By embedding the antenna, *Randelman* teaches that the antenna can determine the direction of the vehicle<sup>1</sup> as well as if the vehicle has stopped. Col. 2, lines 51-54; Col. 3, line 56 to Col. 4, line 1; Figure 3. Therefore, *Randelman* fails to teach or suggest an antenna having an operable range only proximate a surface of a dispenser.

In addition, *Randelman* fails to teach or suggest the amended claim 68 and, in fact, teaches away from modifying his system such that the antenna 2 has an operable range

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<sup>1</sup> In addition, *Randelman* teaches that a second antenna is required to determine whether the vehicle is entering or exiting the service area. Col. 2, lines 51-54; Figure 2.

proximate a surface of the pump 9. "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). (M.P.E.P. § 2141.02). *Randelman* requires that the antenna 2 determine the direction of the vehicle as well as if the vehicle has stopped. Col. 2, lines 51-54; Col. 3, line 56 to Col. 4, line 1; Figure 3. By embedding the antenna 2 in the service area 3, the disclosed system can make both determinations. However, modifying the disclosed *Randelman* system to include the antenna 2 in the pump 9 that has an operable range proximate a surface of the pump 9 would prevent the disclosed system from making the determinations regarding the direction of the vehicle and if the vehicle has stopped. Moreover, this modification would make the antenna 2 disclosed in *Randelman* unsatisfactory for its intended purpose. If a "proposed modification would render the prior invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." M.P.E.P. §2143.01. As indicated, the intended purpose of the antenna 2 in *Randelman* is to determine a direction of a vehicle and whether the vehicle has stopped. By including the antenna 2 in the pump 9 with an operable range proximate a surface, the antenna 2 would not have a sufficient range to determine whether a vehicle has stopped, much less whether a vehicle has entered the service area 3.

In addition, amended claim 68 also recites, "verifying, with a remote credit card processing site, a customer account associated with the customer identification data prior to permitting the transaction at the activated dispenser." In contrast, *Randelman* merely teaches that charges to a fleet are recorded and then invoiced, *not* charging for individual transactions. Accordingly, Applicant respectfully request reconsideration and allowance of claim 68 and its dependents.

CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all Claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

The RCE fee in the amount of \$810 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization.

Attached herewith is a Petition for Extension of Time for one (1) month. The Extension of Time filing fee in the amount of \$120 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization.

No other fees are believed to be due. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

Date: October 10, 2007

/Michael E. Cox/

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